



FAIRFAX
COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Fence and/or Wall Height

PUBLIC HEARING DATES

Planning Commission

September 27, 2006 at 8:15 PM

Board of Supervisors

October 23, 2006 at 4:00 PM

PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314

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DP



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STAFF COMMENT

INTRODUCTION

The proposed amendment is on the 2006 Priority 1 Zoning Ordinance Amendment Work Program and is one of several changes requested by the Board of Supervisors to address certain reductions of yard requirements, increases in fence and wall height, reductions in lot width, and other issues. In the past, the most typical way a property owner could request an increase in fence or wall height or a modification of specified yard requirements was by a variance application submitted for review to and acted upon by the Board of Zoning Appeals (BZA). However, in accordance with Va. Code Ann. Section 15.2-2309 (2003) and as confirmed by the Supreme Court of Virginia in *Cochran v. Board of Zoning Appeals*, 267 Va. 756, 594 S.E. 2d 571 (2004), a variance may be granted only when the strict application of the Zoning Ordinance would, in the absence of a variance, “interfere with all reasonable beneficial uses of the property, taken as a whole.” *Cochran*, 267 Va. at 766, 594 S.E.2d at 577.

In light of this rigorous standard, the Board of Supervisors (Board) determined that it may be in the County’s best interest to allow some limited flexibility with regard to certain Zoning Ordinance provisions, such as minimum yard and fence/wall height requirements, and that these requests can be appropriately accommodated through the special permit or special exception review process. The proposed amendment is the third in a series of six potential Zoning Ordinance amendments that will be brought to the Board for consideration this year. The proposed amendment, however, addresses only fence and/or wall height increases in a front yard with special permit approval, the administrative approval of fence and/or wall height increases in certain limited circumstances and an increase in fence and/or wall height for certain decorative or support features.

BACKGROUND

On December 6, 2004, the Board of Supervisors authorized the Modification of Certain Minimum Required Yards; Waiver of Residential Minimum Lot Width Requirement and Increase in Fence and/or Wall Height Zoning Ordinance Amendment for public hearings. In response to citizen issues and questions, a public information session was held in January 2005, and the amendment was subsequently indefinitely deferred in order to allow more coordination between the citizens, staff, Planning Commission and BZA to address the outstanding issues. In response, staff developed a list of 15 potential revisions to the Zoning Ordinance that could provide some flexibility in the application of certain provisions. After several discussions with the Board and members from the BZA, a series of six citizen meetings were held in the fall of 2005 at various locations throughout the County to obtain citizen input on the list of 15 potential amendments. Some of the comments generated from the citizen input meetings related to potential increases to allowable fence and/or wall height in front yards with special permit approval and other fence related issues. Staff reported the results of the citizen meetings to the Board and is currently proceeding with work on the proposed amendments in a phased manner that was endorsed by the Board. Information pertaining to scheduling and updates on the status of these amendments is contained on the Department of Planning and Zoning website at

www.fairfaxcounty.gov/dpz/projects/minyard.htm.

CURRENT PROVISIONS AND PROPOSED AMENDMENT

Under the current Zoning Ordinance provisions, a fence or wall is permitted in any zoning district as an accessory use to a principal use. Fences and walls are governed by Par. 3 of Sect. 10-104 of the Zoning Ordinance, which sets forth the height and location regulations for any fence or wall, but does not negate the screening requirements contained in Article 13 of the Zoning Ordinance. Under Par. 4 of Sect. 10-103, the height of all accessory structures, including fences, is measured from the highest part of the structure to the lowest point of finished ground level adjacent to the structure. As a result, any finials, fence posts, lighting fixtures or other decorative features located on fences/walls are included in the fence/wall height. In addition, if the ground on one side of the fence/wall is lower than on the other side of the fence/wall, the lower ground level must be used as the base for the fence/wall height measurement.

Under Sect. 10-103, a fence and/or wall of up to seven feet in height may be located in any yard of any lot containing two or more acres and located in the R-A, R-P, R-C, R-E and R-1 Districts. In other districts or on lots less than two acres in the R-A through R-1 Districts, a fence or wall located in any front yard can not exceed four feet in height in most circumstances. However, in that portion of a front yard on a residential corner lot that abuts a major thoroughfare, a solid fence or wall not exceeding eight feet in height is permitted subject to certain standards. For industrial uses, fences or walls located in any yard may not exceed eight feet in height.

Par. 4 of Sect. 10-104 sets forth the provisions for gates and gate posts which may be located in any minimum required front yard. Currently, two gates up to eight feet in height and four gate posts without limit to height or width may be located in any minimum required front yard. Par. 4 also states that gates and gate posts located in any minimum required front yard that exceed four feet in height shall not exceed in maximum width 15% of the lot width. For example, on a lot with a lot width of 100 feet, a gate and gate post exceeding four feet in height cannot exceed 15 feet in width when located in any minimum required front yard.

Currently, there is limited ability to increase the height of fences, walls or gate posts. When located in a P district, the Board can modify these provisions with the approval of a conceptual development plan. The Board in conjunction with the approval of a proffered rezoning or special exception, and the BZA with special permit approval, can modify the height and location requirements for fences and/or walls that provide noise attenuation for certain properties impacted by highway noise, properties impacted by noise from commercial or industrial uses on adjacent structures and for containment structures associated with outdoor recreation/sports facility playing fields/courts and golf courses. As a result of a recently adopted Zoning Ordinance amendment, the Board may now approve in conjunction with a proffered rezoning or a special exception for another use, or the BZA in conjunction with a special permit for another use, an increase in fence, wall and/or gate post height. All other increases in fence, wall, gate and/or gate post height require variance approval by the BZA.

PROPOSED AMENDMENT

The proposed amendment addresses fence and/or wall height increases in front yards with special permit approval, the administrative approval of fence and/or wall height increases for existing structures in certain limited circumstances and an increase in fence and/or wall height for certain decorative and support features. Each of these new proposals will be addressed in turn. The proposed amendment, however, does not impact gate or gate post height as gate posts located in minimum required front yards currently do not have a height limitation and gates may be permitted up to eight feet in height in any minimum required front yard. Gates and gate posts located in any other yard are subject to the same height limitation as other fences and walls in those yards. It is the opinion of staff that the existing gate and gate post provisions provide adequate flexibility and that no changes to these provisions are necessary.

Administrative Increases in Fence and/or Wall Height

As previously noted, fence/wall height is measured from the highest portion of the fence/wall to the lowest point of ground level adjacent to the fence/wall. In many instances fences/walls are constructed in such a manner that the top of a fence/wall is level and the actual height of the fence/wall may slightly vary if there are slight depressions or swales that exist on the property. Furthermore, there have been instances where one or more boards or pickets in a picket fence may slightly exceed the fence/wall height limitations. There has been a previous incidence where a property owner was required to reduce the height of a fence by ¼ inch. It is staff's opinion that it would be highly desirable in such situations involving existing structures if there would be a mechanism that would allow a slight increase in fence/wall height to be approved administratively by the Zoning Administrator as it is believed that such situations have minimal, if any, adverse impact on adjacent properties.

In response, the amendment sets forth a new Par. 3I of Sect. 10-104 that provides for an administrative increase in fence or wall height for existing structures in certain limited circumstances. Under the proposal, the Zoning Administrator may allow up to a certain percentage increase in fence and/or wall height for an existing fence and/or wall in any yard subject to standards. This proposal is similar to the error in building location provisions contained in Sect. 2-419 of the Zoning Ordinance which allow the Zoning Administrator to reduce the minimum yard requirements by up to 10% in certain limited situations. As with the administrative error in building location provisions, the proposed administrative increase in fence/wall height would only be applicable for existing structures that were constructed out of compliance with the height limits, but were done in good faith and through no fault of the property owner. Further, staff is proposing standards that require the Zoning Administrator to find that sight distance requirements are satisfied, that the increase is not detrimental to the use and enjoyment of nearby properties, and that the increase is due to variations in topography on the lot or the fence/wall materials. The requestor will be required to submit illustrations supporting the need for the increase. The intent of the proposed standards is to minimize the impact of the height increase of existing structures on adjacent properties and to ensure that such height increase does not result in any safety concerns.

As noted above, Sect. 2-419 currently allows the Zoning Administrator to approve an error in building location by up to 10% and, therefore, there is precedent for allowing the Zoning Administrator to administratively increase fence/wall height by up to 10%. However, it is staff's opinion that a 10% increase may be excessive. For example, 10% of a fence that is allowed to be up to four feet in height could result in a height increase of up to 4.8 inches, whereas 10% of a fence that is allowed to be up to eight feet in height would result in a height increase of 9.6 inches. Therefore, staff is recommending that the Zoning Administrator be allowed to increase fence height for existing fences by up to 5% in any yard. However, in recognition that the Board and Planning Commission may wish to approve a higher percentage, optional language has been added that would allow the Board to approve a 10% reduction and still be within the scope of advertising.

Increase in Fence and/or Wall Height for Certain Decorative and Support Features

It has come to the attention of staff that many contractors measure fences and/or walls to the top of the rail or wall and not to the top of the post or highest feature on the fence or wall as currently required by the Zoning Ordinance. Therefore, many existing fences and walls are taller than what the contractor indicated and may be in violation of the Zoning Ordinance. This is made evident by the fact that many of the fence and wall complaints processed by the Zoning Enforcement Branch have been the result of fence posts, lighting fixtures and other decorative features exceeding the fence/wall height limitations and not the remaining portions of the fence or wall. Staff believes that these structural or decorative features only minimally impact the overall bulk of a fence or wall and, as such, an allowance for an increase in height for these features would not significantly impact off-site properties, provided that there were appropriate limitations as to the number and spacing of such features.

In response, a new Par. 3J of Sect. 10-104 is proposed to be added that would allow posts that are not wider than 6" x 6", finials, post caps, lighting fixtures, or similar decorative features, as determined by the Zoning Administrator, to exceed the maximum fence/wall height limitations by up to nine inches. Furthermore, such features must be spaced an average distance of six feet apart and a minimum distance of three feet apart. Allowing such features to exceed the fence/wall height limits by up to nine inches will allow for the majority of the "typical homeowner" type finials, post caps or lighting fixtures marketed for home use (as measured at several home improvement centers and as is available for purchase over the internet). By requiring that such features be spaced not less than three feet apart and an average distance of six feet apart, staff believes that these features will remain subordinate to the bulk of the fence/wall and will not effectively increase the appearance of the height of the fence or wall. The six foot average spacing was selected because fences are typically sold at home improvement centers in six to eight foot sections. Staff is proposing to allow for some of the features to be an average of six feet but not less than three feet apart to address those instances where a fence/wall turns a corner or the fence/wall length is not evenly divisible by six. Finally, the amendment requires that all other applicable provisions of the Zoning Ordinance must be met, including the outdoor lighting provisions contained in Part 9 of Article 14. Given that there are lighting fixtures on many fences or walls and the potential adverse impacts that glare from such fixtures could have on adjacent properties, staff believes that it is important to emphasize the need for compliance with the outdoor lighting standards.

Increase in Front Yard Fence and/or Wall Height With Special Permit Approval

This item was included in the Zoning Ordinance amendment that was previously authorized for public hearings on December 6, 2004, and was subsequently indefinitely deferred. Staff is proposing a new Sect. 8-923 that would allow the BZA to approve a special permit for an increase in fence and/or wall height in the front yard in certain circumstances.

All special permit requests are subject to the special permit general standards set forth in Sect. 8-006 of the Zoning Ordinance, which include standards relative to the use or structure being harmonious with the adopted comprehensive plan, satisfying the general purpose and intent of the applicable zoning district regulations, and being harmonious with and not adversely affecting the use or development of neighboring properties, among others. The proposed special permit for an increase in fence and/or wall height will also be subject to the special permit general standards.

In addition to the general standards, this amendment includes a number of additional standards for the proposed new special permit. These additional standards are individually discussed below:

1. ***The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3I of Sect. 10-104.***

In many instances under the current provisions, a fence or wall can not exceed a maximum height of four feet in any front yard. Under this proposal, the BZA could approve a special permit for an increase in fence and/or wall height up to six feet in a front yard. It is staff's belief that a six foot tall fence and/or wall is adequate to provide privacy, security and/or screening. The proposed six foot height limitation is consistent with many of the barrier requirements in Article 13 of the Zoning Ordinance. A barrier is required when a more intensive use is required to provide screening, such as a fence or wall, when locating adjacent to or across the street from a less intensive use in order to minimize its visual impacts on the less intensive use. Further, staff believes that the six feet should be a maximum and that any front yard fence/wall that is subject to a special permit for an increase in fence/wall height should not also be eligible for an increase as may be granted by the Zoning Administrator under the proposed changes to Par. 3I of Sect. 10-104.

2. ***The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.***

Sect. 2-505 of the Zoning Ordinance requires that on every corner lot within the sight distance triangle there shall be no structure or planting of such nature and dimension as to obstruct sight distance, except with very limited exception. Such sight distance must be maintained between two horizontal planes, one that is 3 ½ feet and the other ten feet above the street. The purpose behind this provision is to prevent potential traffic hazards that might develop due to views on corner lots being obstructed by fences.

3. *The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but are not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.*
4. *The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.*
5. *The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.*

It is very difficult, if not impossible, to develop specific standards that would be appropriate in all situations because every site is unique. Standards 3, 4 and 5 are designed to guide the BZA in determining the impacts of the proposed increase in fence and/or wall height on an application property and on nearby properties. By identifying such factors as the orientation of the on- and off-site structures, topography of the lot, multiple road frontages, safety or noise concerns, and bulk and scale issues, staff believes that the analysis of the proposal will encompass those factors that have the greatest potential for impact on nearby properties. Concern was raised during the citizen meetings that increases in fence height may be inappropriate in historic overlay districts and along Virginia Scenic Byways as the purpose of these designations is, among other things, to preserve and protect views of historic structures and landscapes. In response, a specific reference was made that the proposed fence and/or wall height increase must be harmonious with any historic designation.

6. *The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.*

This acknowledges the authority of the BZA to impose conditions that it deems necessary to ensure that the proposed development is appropriate, and suggests possible consideration of conditions that the BZA may impose. Given that every property is unique, it may be appropriate in some situations and not in other situations for the BZA to impose such conditions.

7. *This standard sets forth specific plat and submission requirements for the new special permit.*

The current special permit plat submission requirements for most special permit applications are contained in Par. 2 of Sect. 8-011 of the Zoning Ordinance. With regard to submission

requirements for the new increase in height of a fence and/or wall in a front yard special permit, staff is recommending special permit plat submission requirements that are similar to the plat detail currently required for a special permit for an error in building location, which are somewhat less restrictive than those contained in Par. 2 of Sect. 8-011. Staff believes that an appropriate amount of information must be provided in order to evaluate this new special permit use. However, staff believes that all of the information required by Sect. 8-011 is not necessarily required to adequately review this new special permit use and could be financially prohibitive for individual property owners. Some of the special permit plat submission requirements in Sect. 8-011 that are proposed to be excluded with the new special permit use include: detailed right-of-way delineations, stormwater management information, topographic information, limits of clearing and grading and existing vegetation maps. Staff believes the proposed submission standards to be appropriate from a reviewer's perspective and give due consideration to the expense of preparation of a certified plat. In those cases where the applicant is requesting relief from the fence and/or wall height limits based on issues related to topography, it is staff's position that such additional information can be obtained from existing records and/or provided as an additional part of the justification submitted by the applicant with the submission. Staff does not believe that this information will be necessary in all special permit cases.

8. *Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping and/or screening shall be provided.*

This standard requires the submission of architectural depictions of the proposed fence/wall(s), including the height, building materials, and any associated landscaping that is to be provided. It is staff's position that this information will assist staff, the BZA and concerned citizens to better understand how the fence/wall will appear on the lot and what impacts it may have on nearby properties. The architectural depictions do not have to be prepared and sealed by a professional, but rather can be prepared or acquired by the applicant in order to minimize the costs to the applicant.

APPLICATION FEES

Given that the proposed amendment adds a new special permit use, adjustments to the application fee schedule in Paragraphs 1 and 2 of Sect. 18-106 of the Zoning Ordinance are required. The following new fees are proposed:

- Special permit for an increase in fence and/or wall height in a front yard on a single family dwelling lot - \$295.
- Special permit for an increase in fence and/or wall height in a front yard on all other uses - \$2,645.
- Amendments to a previously approved proffered condition, special permit, special exception, conceptual development plan, final development plan or development plan for an increase in fence and/or wall height in a front yard on a single family dwelling lot - \$295.

- Amendments to a previously approved proffered condition, special permit, special exception, conceptual development plan, final development plan or development plan for an increase in fence and/or wall height in a front yard on all other uses - \$2,645.

The current variance application fee for a residential fence and/or wall height increase is \$295 and for all other fence and/or wall height increase variances is \$2,645. The proposed application fee for the new special permit to increase the height of a fence and/or wall in a front yard is also \$295 for a single family dwelling lot and \$2,645 for all other uses, which is consistent with the current variance application fees. Since all development in a P district must be in substantial conformance with previously approved proffered conditions and/or development plans, it follows that modifications to the height of a fence and/or wall in the front yard in P districts may require amendments to those previously approved proffered conditions and/or development plans. Such approval cannot be granted by the BZA since it is the Board that accepts proffered conditions and approves development plans in the PRC District. Furthermore, the Planning Commission approves final development plans in all other P districts. Therefore, this amendment proposes a new fee category for amendments to proffered conditions, conceptual development plans, final development plans or development plans that result in an increase in height of a fence and/or wall in a front yard for lots that are subject to proffered conditions and/or such fences and/or are depicted on an approved development plan. That fee is proposed to be \$295 for a single family dwelling lot and \$2,645 for all other uses, which is consistent with the proposed special permit fees for districts other than P districts. Further, there could also be fence and/or wall height established by conditions associated with the approval of a special exception or special permit, or on the plat associated with a special exception or special permit. The approval authority for an amendment to a special exception is the Board of Supervisors and the approval authority for an amendment to a special permit is the BZA; therefore, any increase in the height of a fence and/or wall in a front yard of lots associated with these applications should be considered by the respective approval authority. For equity and consistency, the proposed fee for amendments to any of these previously approved conditions or plats that result only in the increase in height of a fence and/or wall in a front yard is also proposed to be \$295 for a single family dwelling lot and \$2,645 for all other uses.

PROCESS

There are currently four pending variance applications and seventeen pending appeal applications that potentially could benefit from the establishment of a special permit to allow for an increase in height of a fence and/or wall in a front yard. For any variance application that is requesting a front yard fence/wall height of six feet or less, staff is proposing to administratively convert the pending variance applications, at the applicant's specific request, from a variance application to a special permit application. For any variance application that had requested a front yard fence/wall height of more than six feet, the applicant will have to determine whether they will continue to pursue the variance application or amend their request to six feet or less. Each applicant would be required to complete new application forms, revise their statement of justification, and submit a new affidavit for the special permit. With regard to the plats, the existing variance plat may be deemed to be sufficient for the special permit plat and any additional plat requirements could be waived by the Director of the Zoning Evaluation Division. Staff anticipates the scheduling of the public hearings for these special permits to begin soon after the effective

date of the amendment and anticipates that these current variance applications would be the first applications to be processed under the new special permit.

With regard to the appeal applications, consideration of these applications has been indefinitely deferred in order to allow time for the Board to consider this amendment as it could potentially benefit the appellants. If this amendment were to be adopted, the appellants could submit a special permit application, in accordance with the guidelines adopted by the Board, in order to potentially remedy outstanding front yard fence/wall height issues.

CONCLUSION

Staff believes that the recommended changes will accomplish the Board's desire to allow some limited flexibility with regard to certain Zoning Ordinance provisions, such as fence/wall height requirements. Staff further believes that the proposed amendment strikes the appropriate balance between the desire to have some flexibility in the construction and design of fences and walls while minimizing the potential adverse impacts of such fences or walls on adjacent property owners. Therefore, staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of July 31, 2006 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

Amend Article 8, Special Permits, as follows:

- Amend Part 0, General Provisions, Sect. 8-011, Submission Requirements, by revising the lead-in paragraph to read as follows:

Option 1 – Reflects Sect. 8-011 as it exists on July 31, 2006.

All applications for special permit uses, except for temporary special permits, shall be accompanied by the following items, except that additional or modified submission requirements are set forth in Part 1 for all Extraction and Excavation Uses, in Part 3 for Home Child Care Facilities, in Part 4 for certain Community Uses, in Parts 5 and 6 for certain Commercial Recreation and Outdoor Recreation Uses and in Part 9 for Approval of Modifications to Minimum Yard Requirements for Certain R-C Lots, Approval of Reduction in Minimum Yard Requirements Based on Error in Building Location, Reduction of Certain Yard Requirements, Increase in Fence and/or Wall Height in Any Front Yard and Modification to the Limitations on the Keeping of Animals. Upon receipt of a written request with justification, the Zoning Administrator may modify or waive a submission requirement of Par. 2 below, if it is determined that the requirement is clearly not necessary for the review of the application.

OR

Option 2 – Reflects Sect. 8-011 as it would exist should the Board of Supervisors adopt the proposed Archaeological Survey Submission Requirement Zoning Ordinance Amendment prior to this amendment [<i>changes in bold italics</i>].

All applications for special permit uses, except for temporary special permits, shall be accompanied by the following items, except that additional or modified submission requirements are set forth in Part 1 for all Extraction and Excavation Uses, in Part 3 for Home Child Care Facilities, in Part 4 for certain Community Uses, in Parts 5 and 6 for certain Commercial Recreation and Outdoor Recreation Uses and in Part 9 for Approval of Modifications to Minimum Yard Requirements for Certain R-C Lots, Approval of Reduction in Minimum Yard Requirements Based on Error in Building Location,

Reduction of Certain Yard Requirements, Increase in Fence and/or Wall Height in Any Front Yard and Modification to the Limitations on the Keeping of Animals. Upon receipt of a written request with justification, the Zoning Administrator may modify or waive a submission requirement of Par. 2 below, *or the archaeological submission requirement of Par. 8 below*, if it is determined that the requirement is clearly not necessary for the review of the application.

- **Amend Part 9, Group 9 Uses Requiring Special Regulation, as follows:**

- **Amend Sect. 8-901, Group 9 Special Permit Uses, by adding a new Par. 22 to read as follows:**

22. Increase in fence and/or wall height in any front yard.

- **Add a new Sect. 8-923, Provisions for Increase in Fence and/or Wall Height in Any Front Yard, to read as follows:**

8-923 Provisions for Increase in Fence and/or Wall Height in Any Front Yard

The BZA may approve a special permit to allow an increase in fence and/or wall height in any front yard subject to all of the following:

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3I of Sect. 10-104.
2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.
3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.
5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.

6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.
7. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 1/2" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. The location, dimension and height of any building or structure, to include existing or proposed fences and/or walls.
 - E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of a well and/or septic field.
 - I. If applicable, existing gross floor area and floor area ratio.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

K. The location, type and height of any existing and proposed landscaping and screening.

L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.

M. Seal and signature of professional person certifying the plat.

8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.

Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, Part 1, Accessory Uses and Structures, Sect. 10-104, Location Regulations, by amending Par. 3B and adding new Paragraphs 3I and 3J to read as follows:

3. Except as may be qualified by Sect. 2-505, a fence or wall may be located as follows. Such regulations shall not be deemed to negate the screening requirements of Article 13.

B. In any front yard on any lot, a fence or wall not exceeding four (4) feet in height is permitted. However, in that portion of a front yard on a residential corner lot that abuts a major thoroughfare, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, may be permitted, provided that:

- (1) the driveway entrance to the lot is from a street other than the major thoroughfare and the principal entrance of the dwelling faces a street other than the major thoroughfare, and
- (2) the lot is not contiguous to a lot which has its only driveway entrance from the major thoroughfare or service drive adjacent to the major thoroughfare.

The fence shall not extend into the front yard between the dwelling and the street other than the major thoroughfare and shall also be subject to the provisions of Sect. 2-505.

In addition, an increase in fence height in the front yard up to six (6) feet may be permitted with the approval of a special permit by the BZA in accordance with Part 9 of Article 8.

I. Notwithstanding the above, the Zoning Administrator shall have the authority to approve up to a ~~five (5) to ten (10)~~ **five (5) percent** increase in fence and/or wall height for an existing fence and/or wall in any yard which does not comply with the requirements set forth above. This provision shall not be applicable to such fences and/or walls that are subject to height increases pursuant to Sect. 8-923. Such an increase may be approved by the Zoning Administrator in accordance with all of the following:

- (1) The sight distance requirements of Sect. 2-505 shall be met.
- (2) The increase in fence and/or wall height is due to variations in topography on the site or of the fence materials.
- (3) Any existing noncompliance was done in good faith and through no fault of the property owner.
- (4) Such fence and/or wall height increase shall not be detrimental to the use and enjoyment of the other properties in the immediate vicinity.
- (5) All such requests shall be accompanied by illustrations supporting the need for the height increase and identifying the location(s) for which the relief is sought.

J. Notwithstanding the above provisions, posts, not wider than six (6) inches by six (6) inches, finials, post caps, lighting fixtures, or similar decorative features as determined by the Zoning Administrator, may exceed the maximum height of any fence and/or wall by not more than nine (9) inches provided such features are spaced an average distance of six (6) feet apart and a minimum distance of three (3) feet apart. In addition, all other applicable provisions of this Ordinance shall be met, including the outdoor lighting provisions of Part 9 of Article 14.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by revising the Group 9 entry in Par. 1 and Paragraph 2 to read as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be

made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

1. Application for a variance, appeal, special permit or special exception:

Group 9 special permit

Open air produce stand	\$ 585
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Accessory dwelling unit	\$ 140
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Modification to minimum yard requirements for R-C lots	\$ 60
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Modification to the limitations on the keeping of animals;	\$ 295
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error in building location; reduction of certain yard	
---	--

requirements on a single family dwelling lot;	
---	--

modification of minimum yard requirements for certain	
---	--

existing structures and uses; noise barriers on a	
---	--

single residential lot; <u>increase in fence and/or wall height</u>	
---	--

<u>in any front yard on a single family dwelling lot</u>	
--	--

Reduction of certain yard requirements on all other uses;	\$ 2645
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<u>increase in fence and/or wall height in any front yard on</u>	
--	--

<u>all other uses</u>	
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All other uses	\$ 5295
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Amendment to a previously approved and currently valid special permit	\$ 295
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or special exception for a reduction of certain yard requirements <u>or an</u>	
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<u>increase in fence and/or wall height in any front yard on a single family lot</u>	
--	--

Amendment to a previously approved and currently valid special permit	\$ 2645
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or special exception for a reduction of certain yard requirements <u>or an</u>	
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<u>increase in fence and/or wall height in any front yard on all other uses</u>	
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2. Application for an amendment to the Zoning Map:

District Requested

Filing Fee

All R Districts

\$8820 plus \$185 per acre

All C, I and Overlay Districts

\$8820 plus \$295 per acre

1	PRC District	\$8820 plus \$295 per acre
2	PDH, PDC and PRM District	
3	Application with conceptual development plan	\$8820 plus \$295 per acre
4	Application with concurrent filing of	\$8820 plus \$435 per acre
5	conceptual and final development plans	
6	Final development plan	\$4410 plus \$140 per acre
7	Amendment to a pending application for	\$1470 plus applicable per
8	an amendment to the Zoning Map	acre fee for acreage
9		affected by the amendment
10		
11	Amendment to a pending application for a	\$1335
12	final development plan or development plan	
13	amendment	
14		
15	Amendment to a previously approved proffered	\$295
16	condition, development plan, final development plan,	
17	conceptual development plan or concurrent	
18	conceptual/final development plan for a reduction of	
19	certain yard requirements on a single family dwelling	
20	<u>lot or an increase in fence and/or wall height on a</u>	
21	<u>single family dwelling lot</u>	
22		
23	Amendment to a previously approved proffered	\$2645
24	condition, development plan, final development plan,	
25	conceptual development plan or concurrent	
26	conceptual/final development plan for a reduction of	
27	certain yard requirements on all other uses <u>or an</u>	
28	<u>increase in fence and/or wall height on all other uses</u>	
29		
30	All other amendments to a previously approved	
31	development plan, proffered condition,	
32	conceptual development plan, final development plan	
33	or concurrent conceptual/final development plan,	
34		
35	With new construction	\$4410 plus applicable per
36		acre fee for acreage affected
37		by the amendment
38		
39	With no new construction	\$4410

1
2
3 **Note:** For purpose of computing acreage fees, any portion of an acre shall be counted as an
4 acre.

5
6 The fee for an amendment to a pending application is only applicable when the
7 amendment request results in a change in land area, change in use or other substantial
8 revision.
9